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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,096	09/18/2003	Brian R. MacDonald	PRD-2110-USANP	1638
27777	7590	03/23/2010		
PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003			EXAMINER BUNNER, BRIDGET E	
			ART UNIT 1647	PAPER NUMBER
			NOTIFICATION DATE 03/23/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/667,096

Applicant(s)

MACDONALD ET AL.

Examiner

Bridget E. Bunner

Art Unit

1647

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-12, 15-19 and 26-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-12, 15-19 and 26-34 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 September 2003 and 01 February 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Application, Amendments and/or Claims

The amendment of 12 November 2009 been entered in full. Claims 9, 10, 11, 12 and 34 are amended. Claims 1, 13-14, 20-25 are cancelled.

Claims 2-12, 15-19, and 26-34 are pending in the instant application.

Withdrawn Objections and/or Rejections

1. The Applicant's arguments to the Notice to Comply with Sequence Listing Requirements under 37 CFR §1.821 (12 November 2009) have been considered and are found persuasive. Therefore, the requirements set forth in the Notice to Comply (12 August 2009) are *withdrawn*.
2. The objection to claim 34 at page 4 of the previous Office Action (12 August 2009) is *withdrawn* in view of the amended claim (12 November 2009).
3. The rejection of claims 9-12 under 35 U.S.C. 112, second paragraph, as set forth at page 4 of the previous Office Action (12 August 2009) is *withdrawn* in view of the amended claim (12 November 2009).

Ex Parte Quayle

This application is in condition for allowance except for the following formal matters:

The amendment to the specification filed 08 January 2009 attempted to claim priority to provisional Application No. 60/498,740, filed August 28, 2003. However, this amendment is an untimely claim for priority. The reference to a prior-filed provisional application must be submitted during the pendency of the later-filed application. Specifically, if the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must be submitted

within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed provisional application. These time periods are not extendable. The failure to timely submit the reference is considered a waiver of any benefit under 35 U.S.C. 119(c) to such prior-filed provisional application. See MPEP § 201.11 and 37 CFR 1.78. Applicant is encouraged to amend the first line of the specification to remove reference to provisional Application No. 60/498,740.

It is noted that this issue was raised at page 3 of the previous Office Action of 12 August 2009. Applicant indicates at page 7 of the Response of 12 November 2009 that a petition to accept the priority claim will be filed. As of yet, no petition has been filed.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire TWO MONTHS from the mailing date of this letter.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bridget E. Bunner whose telephone number is (571) 272-0881. The examiner can normally be reached on 9:00-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Nickol can be reached on (571) 272-0835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BEB
Art Unit 1647
26 January 2010

/Bridget E Bunner/
Primary Examiner, Art Unit 1647